

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VICTOR CALLENDER,

Plaintiff,

Docket # 1:15-CV-05813 (AKH)

-against-

DECLARATION

FORSTER & GARBUS, LLP and
DISCOVER BANK

Defendants.

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I, Carol A. Lastorino, pursuant to 28 U.S.C. § 1746, hereby declare the following:

1. I am an attorney duly admitted to practice law in the State of New York and in this Court. I am a member of the law firm, Rivkin Radler LLP, attorneys for defendant, Forster & Garbus, LLP ("F&G"), in the above-captioned matter. I submit this Declaration in support of F&G's motion for partial summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and to dismiss plaintiff's Second Amended Complaint pursuant to Rule 8 of the Federal Rules of Civil Procedure.

2. I submit this Declaration to place true and accurate copies of the following documents before this Court:

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|-------------|------------------------------------------------------------------------------------------------------------------------|
| Exhibit "A" | Second Amended Complaint in the instant action (excluding the 483 pages of exhibits) |
| Exhibit "B" | F&G's Amended Answer to Second Amended Complaint in instant action |
| Exhibit "C" | Discover Bank's default judgment against Victor Callender entered on December 21, 2005 in Civil Court City of New York |
| Exhibit "D" | Excerpts from September 28, 2016 deposition testimony of Joel Leiderman at F&G |

- Exhibit "E" Letter dated February 11, 2010 from F&G to Victor Callender
- Exhibit "F" Series of letters dated May 3, 2010, November 2, 2010, February 15, 2011, June 29, 2011 and December 30, 2011 from F&G to Victor Callender
- Exhibit "G" Excerpts from October 25, 2016 deposition testimony of Victor Callender
- Exhibit "H" Order to show cause dated May 22, 2012 to vacate the default judgment filed by Victor Callender in Civil Court City of New York
- Exhibit "I" Letter dated July 2, 2012 from F&G to Victor Callender
- Exhibit "J" Letter dated October 23, 2012 from Victor Callender to F&G with copy of envelope received on December 17, 2012
- Exhibit "K" Email dated December 18, 2012 from F&G to Discover Bank
- Exhibit "L" Email dated December 28, 2012 from Discover Bank to F&G
- Exhibit "M" Email dated February 22, 2013 from Discover Bank to F&G
- Exhibit "N" Letter dated March 12, 2013 from Discover Bank to Victor Callender
- Exhibit "O" Letter dated April 15, 2015 from Urban Justice Center to F&G
- Exhibit "P" Letter dated April 21, 2015 from F&G to Urban Justice Center with enclosed reimbursement checks

3. Based upon the Notice of Motion, accompanying Memorandum of Law and the foregoing exhibits, it is respectfully requested that F&G's motion in its entirety together with such other and further relief as to this Honorable Court seems just and proper.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: Uniondale, New York
May 9, 2017

/s/ Carol A. Lastorino
Carol A. Lastorino

TO: LAW OFFICE OF AHMAD KESHAVARZ
Attorneys for Plaintiff
16 Court St., 26th Floor
Brooklyn, NY 11241-1026
(718) 522-7900
ahmad@newyorkconsumerattorney.com